

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:07-CR-210

v.

HON. ROBERT HOLMES BELL

MICHELLE DENISE SMITH,

Defendant.

MEMORANDUM OPINION AND ORDER

Defendant Michelle Denise Smith has filed a motion for modification or reduction of sentence (Dkt. No. 45) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, because the defendant was determined to be a career offender and her advisory sentencing guideline range has not been reduced, the Probation Office has found Defendant ineligible for a reduction in sentence under Guideline Amendment 782.

Defense counsel has filed a response to the report of eligibility (Dkt. No. 52) and wishes to preserve the issue for future consideration should the law change.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt. No. 45) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

Dated: January 13, 2015

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE